

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND CO. and
PIONEER HI-BRED INTERNATIONAL, INC.,

Defendants.

Case No. 09-cv-0686 (ERW)

**DEFENDANTS' MOTION TO BIFURCATE AND STAY DISCOVERY
WITH RESPECT TO WILLFUL INFRINGEMENT
PURSUANT TO FED. R. CIV. P. 42(b)**

COME NOW Defendants E.I. du Pont de Nemours and Co. and Pioneer Hi-Bred International, Inc. (collectively, "DuPont" or "Defendants"), pursuant to Fed. R. Civ. P. 42(b), and move to bifurcate and stay discovery with respect to Monsanto Co.'s and Monsanto Technology Inc.'s (collectively, "Monsanto") claim of willful infringement. A memorandum in support of the instant motion is filed concurrently herewith. As further discussed in Defendants' memorandum in support, bifurcation is necessary to avoid the prejudice to Defendants of having to decide whether to waive the attorney-client privilege at this preliminary stage of fact discovery in defending against Monsanto's claim of willful infringement.

Dated: August 31, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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